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CONCORD, N.H.

Mr. John W. Maynard  
Deputy Commissioner for  
Building and Loan Associations  
State House

Dear Mr. Maynard:

In reply to your letter of February 19, 1953, addressed to Henry Dewst, Esq., Assistant Attorney General, it is our opinion that neither a building and loan association or savings bank can sell mortgage loans to another institution and act as servicing agent for the other institution for a fee.

Such activities appear to require such savings bank or building and loan association to act in a fiduciary capacity. The power to so act is expressly limited by Revised Laws, Chapter 313, Section 32 and Revised Laws, Chapter 312, Section 13 to trust companies or similar corporations and national banks duly authorized and located within the state.

While the phrase "or similar corporations" may be thought to be ambiguous the phrase in Chapter 312, Section 13 " . . . but no corporation shall be appointed in any other fiduciary capacity . . ." in our opinion precludes such activities as those inquired about on the part of savings banks and building and loan associations.

In this connection you may wish to review the department's letter to Clyde M. Davis, Bank Commissioner, December 8, 1949, copy of which is attached.

Very truly yours,

George F. Nelson  
Assistant Attorney General

GFN:RM

attach. 1